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9 William Knowles,  
10 Plaintiff,  
11 vs.  
12 U.S. Foodservice, Inc., et al.,  
13 Defendants.  
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16 Before the Court is the parties' Joint  
17 Plaintiff seeks an order requiring Defendant's  
18 requests. In interrogatories and a deposition, Defendant  
19 any person assuming the route duties held by Plaintiff  
20 responded by identifying the drivers who had assumed the  
21 not dispute that Defendant's response was incomplete.  
22 Defendant named every individual who had assumed the route  
23 believes that since that time, another individual has assumed  
24 Plaintiff's former route.

25 Federal Rule of Civil Procedure 37(b)(2) provides that in a  
26 interrogatory "if the party learns that in so far as it knows,  
27 incomplete or incorrect . . . ." Defendant's response was  
28 because its response was complete and accurate.

Plaintiff,  
vs.  
U.S. Foodservice, Inc., et al.,  
Defendants.

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Before the Court is the parties' Joint Motion for Summary Judgment. Plaintiff seeks an order requiring Defendant to answer its requests. In interrogatories and a deposition, any person assuming the route duties held by Plaintiff responded by identifying the drivers who had been assigned to that route. Plaintiff does not dispute that Defendant's response was complete. Defendant named every individual who has been assigned to that route. Plaintiff believes that since that time, another individual has been assigned to Plaintiff's former route.

Federal Rule of Civil Procedure 37(b)(2) provides that if a party's interrogatory "if the party learns that in so far as it knows, no such information or reference is known or believed to be in its possession, custody or control," it may answer "incomplete or incorrect . . . ." Defendant's answer here because its response was complete and accurate.

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response was accurate at the September 14, 2009 deadline to supplement discovery, and also when summary judgment briefing was completed on November 23, 2009. Defendant contends that it “does not have an ongoing, never-ending obligation to supplement its discovery responses after the close of discovery . . . .” (Doc. 98 at 4).

There may be circumstances under which supplementation of discovery should be required after the close of discovery. *See Episcopo v. General Motors Corp.*, 2005 WL 628243, \*6 (N.D. Ill. 2004) (“Although Rule 26 does not explicitly provide for supplementation of disclosures and responses after the close of discovery, we think the language of Rule 26(e)(2) is broad enough to require supplemental disclosures under certain circumstances.”). *Episcopo* did not expressly set forth the circumstances under which supplemental disclosures would be appropriate, but suggested they would proper when doing so would be consistent with the goals of discovery, such as narrowing the issues for trial and preventing unfair surprise. Such circumstances are not present here. Plaintiff concedes Defendant’s response was accurate at the time it was made. Even if it is true Defendant recently hired a younger driver to assume Plaintiff’s former route, that would not provide evidence Plaintiff was discriminated against based on his age in December 2007. In requesting further discovery, Plaintiff appears to suggest a far-fetched scheme in which Defendant waited a lengthy time to replace Plaintiff with a younger driver in order to avoid the appearance of age discrimination. Defendant’s response was accurate when made, and practical considerations require that there be some deadline. Without a deadline, a party would have a never-ending obligation to supplement responses. The deadline to supplement discovery in the Court’s Rule Scheduling Order expired over eight months ago.

Accordingly,

**IT IS ORDERED** Plaintiff's request for an order requiring Defendant to supplement its discovery responses **IS DENIED**.

DATED this 10<sup>th</sup> day of September, 2010.

Roslyn O. Silver  
United States District Judge